

**HIGH COURT OF TRIPURA
AGARTALA**

B.A. No. 123 of 2025

Smt. Sampa Biswas

W/O- Sri Goutam Biswas, resident of Rangutia,
near BOP Bamutia, P.S. Lefunga, District- West
Tripura

..... **Petitioner (s)**

Sri Goutam Biswas,

S/O- Lt. Harakumar Biswas, resident of Rangutia,
near BOP Bamutia, P.S. Lefunga, District- West
Tripura

..... **Accused person(s)**

V e r s u s

The State of Tripura

..... **Respondent(s)**

For Petitioner(s)	:	Mr. Ratan Datta, Adv. Mr. Ankan Tilak Paul, Adv.
For Respondent(s)	:	Mr. Raju Datta, PP

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

Order

17.12.2025

Heard both sides.

2. This bail application is filed on behalf of the accused, Sri Goutam Biswas under Section 483 of the BNSS in connection with Special NDPS case No.157 of 2025 arising out of Legunga P.S. Case No.2025/LFG/015 under Sections 20(ii) (B), 21 (c)/25 and 29 of NDPS Act, 1985, who was arrested on 04.05.2025 in connection with the said case and since then he is in custody.

3. The allegations, in brief, are that one Anthony Jamatia, Sub Inspector of Bamutia TOP, based on secret information, raided the house of the accused and recovered total 39 Nos. of Eskuf cough syrups and 6 Kgs. of dry ganja therefrom.

4. Mr. R. Datta, learned counsel appearing for the accused-petitioner submits that there is no dispute that the quantity of the said Eskuf cough syrup comes within the purview of commercial quantity but his main grievance is that the ground of arrest was not communicated to the accused on or immediately

after his arrest in violation of Article 22(1) of the Constitution of India and Section 47 of BNSS. Learned counsel also relies on a decision of the Hon'ble Supreme Court in the case of **Ahmed Mansoor & Ors. vs. the State, represented by Assistant Commissioner of Police & Anr.** [Criminal Appeal No.4505 of 2025 decided on 14.10.2025] wherein reiterating the principle of informing the grounds of arrest to the arrestee, it was observed by the Hon'ble Supreme Court that in that case the mandate of furnishing the grounds of arrest at the time of securing the appellants was not complied with. Therefore, the order passed by the High Court in that case was set aside and also the order of arrest and remand were also set aside.

5. Another judgment as relied on by Mr. Datta, learned counsel is the most recent decision of Hon'ble Supreme Court in a case of **Mihir Rajesh Shah vs. State of Maharashtra & Another**, [Criminal Appeal No.2195 of 2025, decided on 06.11.2025], wherein the Hon'ble Supreme Court observed as under:

56. In conclusion, it is held that:

i) The constitutional mandate of informing the arrestee the grounds of arrest is mandatory in all offences under all statutes including offences under IPC 1860 (now BNS 2023)

ii) The grounds of arrest must be communicated in writing to the arrestee in the language he/she understands;

iii) In case(s) where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally. The said grounds be communicated in writing within a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

iv) In case of non-compliance of the above, the arrest and subsequent remand would be rendered illegal and the person will be at liberty to be set free.

6. Mr. Raju Datta, learned PP appearing for the State apart from referring to the arrest memo, also relies on the communication made by the investigating officer to the accused on the day of his arrest, wherein the investigating officer communicated to the accused that he had lodged a complaint against him, on receiving the contraband articles in his possession and for the interest of investigation, the arrest was required. According to learned PP, by said communication, the ground of arrest was dully communicated to accused and thus, there was full compliance of above said provisions of law.

7. Learned P.P. also relies on a decision of the Hon'ble Supreme Court in a case of **State of Karnataka vs. Darshan etc., 2025 SCC OnLine SC 1702**. In the relevant paragraph Nos.20.1.5 and 20.1.7 as relied on by learned P.P., the followings were observed:

20.1.5 While Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a *prima facie* case. Its reliance on *Pankaj Bansal* and *Prabir Purkayastha* is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused to bail.

8. Learned P.P. also submits that when the decision in **Mihir Rajesh Shah** (supra) was passed, the decision of **Darshan** (supra) was not brought to the notice of the Hon'ble Supreme Court and was not considered.

9. Learned P.P. further relies on a judgment of the Division Bench of this Court in a case of **Sima Aktar on behalf of Ikbal Hossain vs. The State of Tripura & Anr.** [W.P.(Crl.) No.06 of 2025 decided on 20.08.2025] wherein after examining the fact of that case, the Division Bench observed that the Court was satisfied that the accused was adequately informed about the reason for his arrest and therefore, the arrest was not vitiated by any illegality or infirmity. At paragraph No.13 also, it was also mentioned that the very recovery of contraband from the possession of the accused constitutes a clear and significant ground for his arrest. It is deemed that where the contraband articles like dry ganja are seized from an individual's conscious possession, the police are well empowered to arrest such person forthwith. The relevant paragraph Nos.17 and 18 of the said judgment are reproduced hereinbelow:

[17] In so far as the contention of the learned counsel for the petitioner, with regard to the allegation that the officers had manually written the memo of arrest to advance the petitioner's cause, is concerned, this Court finds that such an argument is an afterthought.

The memo of arrest was originally filed without the grounds of arrest being enclosed with the case record. This line of argument raises factual issues which cannot be examined or adjudicated at the stage of a writ petition; rather, it is a matter to be determined during trial. Prima facie, this Court is convinced that there is no violation warranting the exercise of its jurisdiction to grant the reliefs prayed for.

[18] Applying the aforesaid principles to the facts of the present case, this Court is satisfied that the accused was adequately informed of the reason for his arrest, i.e., possession of contraband substance, which by itself constituted a sufficient ground. The arrest, therefore, is not vitiated by any illegality or infirmity.

10. This Court has considered the submissions of both sides and also gone through the records.

11. Earlier taking note of the judgments of the Hon'ble Supreme Court in cases of **Pankaj Bansal vs. Union of India & Others**, (2024) 7 SCC 576; **Ram Krishor Arora vs. Directorate of Enforcement**, (2024) 7 SCC 599; **Prabir Purkayastha vs. State (NCT of Delhi)**, (2024) 8 SCC 254; **Vihaan Kumar vs. State of Haryana & Another**, 2025 SCC OnLine 269, **Ashish Kakkar vs. Union Territory of Chandigarh** [Criminal Appeal No.1518 of 2025, decided on 25.03.2025] and **Kasi Reddy Upender Reddy vs. State of Andhra Pradesh & Others** [Criminal Appeal No.2805 of 2025 decided on 23.05.2025], this Court in a decision in the case of of **Smt. Anita Nama on behalf accused Ratan Nama Sudra vs. State of Tripura & Another** [W.P.(Crl.) No.04 of 2025 decided on 08.07.2025], observed the followings at paragraph No.18:

18. Now, taking note of all the above said authoritative pronouncements, it emerges that grounds of arrest should be communicated to the arrested person in writing, and though in every case, it may not be practicable to convey the grounds or arrest in writing but if the arrested person alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating officer/Agency to prove compliance with requirement of Article 22(1) and such arresting authority shall have to show that grounds of arrest containing basic facts constituting the grounds were communicated to the arrested person effectively in the language which he understands and method of communication was such that constitutional object was safeguarded. Otherwise non-compliance of requirement of Article 22(1) would vitiate the arrest of the accused person and his subsequent remand(s) in the custody. As per *Kasi Reddy*, the grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of a case.

12. After the judgment passed by this Court in said **Anita Nama's** case, the Hon'ble Supreme Court passed the judgments in cases of **Darshan** (supra), then **Ahmed Mansoor** (supra) and finally, **Mihir Rajesh Shah** (supra) which is latest in time.

13. In **Mihir Rajesh Shah** (supra), it is categorically held that the ground of arrest must be communicated in writing to the arrestee and it should be in the language he/she understands. In case where, the arresting officer/person is unable to communicate the grounds of arrest in writing on or soon after arrest, it be so done orally and the same be communicated in writing with a reasonable time and in any case at least two hours prior to production of the arrestee for remand proceedings before the magistrate.

14. In **Kasi Reddy** (supra), it was already observed by the Hon'ble Supreme Court that it was not necessary for the authorities to furnish full details of the offence. However, the information should be sufficient to enable the arrested person to understand as to why he was arrested. The grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of a case.

15. Now coming to the case in hand as indicated above, in the arrest memo the grounds of arrest was shown to be "under Section 42 of the NDPS Act of above referred case" and the communication dated 04.05.2025 as communicated by the investigating Officer to the accused on the date of his arrest, contains the following:

"As I SI Anthony Jamatia of Bamutia Out Post West Tripura lodge a complaint against you, on recovering the contraband articles in your possession and now for the interest of the investigation your arrest is required which referred Bamutia OP GD Entry No.03 Dated 04/05/2025."

16. Nowhere, it was mentioned therein about the material particulars of the alleged offence(s) committed by him by adequately informing him for the reason of his arrest so that he can understand the accusations being brought against him, such as what sort of articles were recovered from and what quantity etc. The above such communication is cryptic in nature and does not contain sufficient information to make the arrestee understood about such grounds of arrest to make effective representation thereof.

17. Both the learned counsel submits that the chargesheet has already filed in this case.

18. Considering all these aspects, it is held that the arrest of the accused-petitioner is illegal for violation of Article 22(1) of the Constitution of India and

Section 47 of BNSS and therefore, the accused-petitioner namely, Sri Goutam Biswas shall be released on bail on furnishing a bond of Rs.2,00,000/- [Rupees Two lakhs] with one surety of the like amount to the satisfaction of the learned Special Judge, Court No.1, West Tripura, Agartala with conditions that he will not try to influence or terrorize any witness of the case in any form and will attend the Court regularly to face the trial. He will also not leave the jurisdiction of the State of Tripura without prior permission of the learned Special Judge. Any violation of any of the terms as referred, the Special Judge will be at liberty to take necessary action against him in accordance with law. It is however, clarified that what are mentioned in above, will have no bearing in the trial of the case.

19. Learned P.P submits that necessary liberty may be given to the respondent-State to arrest the accused-petitioner again in view of certain observations made in **Ahmed Mansoor** (supra) and **Mihir Rajesh Shah** (supra). No specific liberty is required to be given as asked for as the prosecution is always at liberty to act in accordance with law.

20. With such observations and directions, the bail application is allowed and disposed of.

Communicate a copy of this order to the learned Special Judge, Court No.1, West Tripura, Agartala immediately. Send back Trial Court Record.

Reconsign the case diary to learned P.P. with a copy of this order.

JUDGE

SUJAY GHOSH  Digitally signed by SUJAY GHOSH
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Sujay